(ख) और (ग) लघु उद्योग क्षेत्र में संस्थागत ऋण की पर्याप्तता और संबंधित मुद्दों की जांच करने के लिए नियुक्त की गई नायक समिति की रिपोर्ट के अनुसार लघु क्षेत्र में रुग्णता मुख्यतया इसकी आंतरिक अनेक कमियों के कारण होती है जैसे कि सीमित वित्तीय संसाधन तथा संगठनात्मक, वित्तीय तथा प्रबंधात्मक कुशलता व विशेषज्ञों का अभाव। रुग्णता के बाहरी कारण अनेकानेक हैं, जिनमें से मुख्य ये हैं—कच्चा माल तथा बिजली सहित अन्य विनिष्टियों की उपलब्धता में कठिनाई होना, (2) विपणन संबंधी कठिनाइयां, (3) ऋण की अपर्याप्तता तथा देरी से मिलना, (4) श्रमिक समस्याएं (5) परियोजनाओं का दोषपूर्ण मूल्यांकन और (6) प्रबंधक जो अकुशल/ईमानदारी की कमी/भागीदारों में मतभेद आदि से पीड़ित होते हैं इस प्रकार पर्याप्त मात्रा में वित्तीय सहायता की अनुपलब्धता महत्वपूर्ण कारणों में से एक है जो लघु एककों में रुग्णता को बढ़ावा देता है।

भारतीय रिजर्व बैंक के अनुसार, मार्च, 1993 के अन्त तक सार्वजनिक क्षेत्र के बैंकों के पास लघु उद्योगों (ग्रामीण उद्योग सहित) से संबंधित कुल 30.40 लाख उधार खातों में से रुग्ण लघु औद्योगिक इकाइयों की संख्या 2.39 लाख थी जो कुल का 7.9% बनता है।

Purchase from State Government

404. SHRI VAYALAR RAVI: Will the PRIME MINISTER be pleased to state:

(a) whether Government have decided to give no preference to the public sector industries under the State Governments in the matter of purchase for the Central Government requirements; and

(b) if so, the reasons therefor?

THE MINISTER OF STATE IN THE MINISTRY OF INDUSTRY (SMT. KRISHNA SAHI): (a) and (b) The policy on purchase preforance announced by the Central Government allows purchase preference to the Central Government public enterprises only when they deal with another Central Government enterprises or a Central Government Departments Industructions issued by the Central Government for implementation by Central Government public enterprises cannot be applied to State Government enterprises.

Inordinate delay in disposal of cases in Courts

405. PROF. VIJAY KUMAR MALHOTRA: Will the PRIME MINISTER be pleased to state:

(a) whether the Chief Justice of India has expressesd anxiety and unhappiness over the inordinate delay in the disposal of cases in the courts including the tribunals and desired to bring about improvement in the disposal therein;

(b) if so, the stips Government have taken or propose to take in the matter;

(c) whether Government are not giving the benefit of the judgment of the Supreme Court given in any one case to other similar cases,

(d) if so, the reasons therefor;

(e) the steps taken to ensure the application of the judgements in all such other similar cases to bring down the number of cases pending in the ccourts;

(f) whether there is any proposal to also advise the Supreme Court to invariably state in their judgements if that judgement is to apply in other similar cases o obviate any doubt; and

(g) if not, the reasons therefor?

THE MINISTER OF STATE IN THE MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI H. R. BHARDWAJ): (a) and (b) In order to consider the problem of arrears of cases in Courts and find out ways

and means to deal with it as expeditiously as possible, a meeting of the Chief Ministers and Chief Justices was held on 4th December, 1993, under the Chairmanship of the Prime Minister. The Chief Ministers and Chief Justices expressed their deep concern over the exploding court dockets. While noting that the problem of arrears was complex in nature, they emphasised that timely action was called for with a view to bringing the justice system in tune with the current needs of all court users at the same time ensuring the quality of justice required to be maintained in any State governed by the Rule of Law. The Conference recommended several steps in a resolution to be adopted for speedy disposal of cases in Courts/Tribunals, which have been acceptel by the Government and commended to all the State Governments/UT Administrations and High Courts/Tribunals for necessary action. Three Working Groups of Law Ministers, thereafter, met to consider the recommendations contained in the above Resolution with regard to rural litigation, arrears of cases in administrative tribunals and alternative dispute resolution. The implementation of December, 1993 resolution and recommendations made by the Working Groups were reviewed by the Law Ministers at their plenary meeting held in Calcutta in November, 1994. A copy of the Resolution adopted at the meeting is onclosed as statement. (See below)

(c) to (e) The question whether directions rendered by the Court in one particular case can be regarded as operative in other cases was considered by the Supreme Court in Prahalad Singh Vs. Union of India ((1989) 2 SCC 683) and the matter was referred to a larger Bench for consideration and the matter is subjudice.

(f) and (g) There is no such proposal under consideration. The Government cannot advise the Supreme Court in such matters.

Statement

The Calcutta Resolution adopted in the Law Ministers' Meeting, 1994

INTRODUCTORY

1. The Law Ministers met in Calcutta on 17 November 1994 to review the progress made in the implementation of the Resolution adopted by the Chief Ministers and Chief Justices in New Delhi on 4 December 1993 on the subject of arrears of cases in courts and tribunals and also to elaborate fuether the recommendations contained in the said Resolution with regard to rural litigation, arrears of cases in administrative tribunals and alternative dispute resolution. The Union Minister of State for Law, Justice and Company Affairs, Shri H. R. Bhardwaj, was in the chair. The Chief Justice of India, Shri Justice A.M. Ahmadi and the Chief Minister of West Bengal, Shri Jyoti Basu, delivered special addresses at the meeting.

2. The Law Ministers expressed their appreciation of the work done in the Working Groups of Law Ministers which met in Bombay (6 October 1994), Chandigarh (31 October 1994) and New Delhi (5 November 1994).

Implementation of CMs' and CJs Resolution

3. The Law Ministers recalled with satisfaction that the CMs' and CJs' Resolution was adopted unanimously. They noted that the Government of India accepted the recommendations contained in the said Resolution. The Law Ministers took note o Doc. LMM/94/No. 4 containing a statement showing follow-up action taken on the recommendations made by the Chief

Ministers and Chief Justices. While expressing satisfaction that the Central Government, the State Governments and the judiciary have implemented certain recommenlations contained in the said Resolution, the Law Ministers noted that the progress made in this regard was not completely satisfactory. They underlined the need to implement the recommendation within reasonable time. They considered that financial or other constraints should not be allowed to come in the way of implementing the recommendations contained in the the Resolution. They called upon all concerned to extend full co-operation in the matter of implementation of the said Resolution. The Law Ministers expressed the hope that State Government would utilise the amounts released by the Central Government based on a formula approved by the Planning Commission of India.

Alternative dispute resolution

4. The Law Ministers recalled that the Chief Ministers and Chief Justices emphasized the desirability of dsputants resolving their disputes by alternative mode such as arbitration, mediation, conciliation and negotiation, since they provided procedural flexibility, saved vauable time and money and avoided the stress of a conventional trial.

5. The Law Ministers considered that the Arbitration Act, 1940 was no longer in tune with the international thought on the subject and that comprehensive law on arbitration be made, based largely on the UNCITRAL Mode Law on International Commercial Arbitration. They further recommended that the said law should also contain provisions on conciliation modelled on the UNCITRAL Concillation Rules. The Law Ministers recommended that the new should apply to both international and domestic arbitration and conciliation.

Rural litigation

6. The Law Ministers noted that the rural litigation constituted a major part of cases currenlly pending in courts and recalled that the Chief Ministers and Chief Justices underlined the need for restructuring the judicial system with a view to ensuring inexpensive and speedy resolution of rural litigation. They were generally of the view that Nyaya Panchayats had not established themselves as effectivo instrument for settlement of rural litigation.

7. There was general agreement that given adequate facilities courts could effectively deal with rural litigation. The Law Ministers noted in this regard the Pitot Project Scheme evolved by the High Court of Karnataka which led, within a period of one year, to the disposal of about fifty per cent of the cases in the selected districts. While commending this Scheme, the Law Ministers recommended the adoption of the Karnataka model or a mdel similar toit in otheh States. The Law Ministers noted that Madhya Pradesh and Tamil Nadu have introduced similar schemos in their States.

8. The Law Ministers also considered that the efforts of subordinate courts in the matter of rural litigation would need to be supplemented by those of Lok Adalats. While noting with satisfaction that Lok Adalats would soon be given statutory status. The Law Ministers recommended that immediat steps should be taken to facilitate the early entry into force of the Legal Services Authorities Act, 1987. The Law Ministers also noted that the traditional and customary councils in the North Eastern Hill States have been rendering inexpensive and speedier justice to the people of these States.

9. The Law Ministers recalled that the Chief Ministers and Chief Justices commended the pattern of Conciliation Courts in Himachal Pradesh and expressed the hope that such Courts in Himachal Pradesh and expressed the hope that such courts would be constituted in other States soon.

10. The Law Ministers noted with satisfaction the existence of mediation and conciliation centres in some States like Tamil Nadu and recommended that such centres should be established in other States also.

11. The Law Ministers recalled the recommendation of the CMs and CJs that the provisions of the Code of Criminal Procedure, 1973 in regard to appointments of Special Judicial Magistrates and Special Metropolitan Magistrates should be put to use by identifying cases which they were empowered to deal with under the Code, and emphasised that there was urgent need to appoint such Magistrates.

12. The Law Ministers also felt that immediate consideration should be given to the categories of criminal cases which could be withdrawn if they were pending for prolonged periods. In this context, the Law Ministers noted with interest constitution of committees in some States consisting of the Chief Secretary, the Law Secretary and the administrative Secretary, among others, for the purpose of taking appropriate decisions with regard to reduction of Government litigation in courts and recommended that considoration shoul be given to the constitution of similar committees in other States. The Ministers felt that renewed efforts should be made with a view to avoiding frivolous litigation involving Government.

13. The Law Ministers further noted that the laws of procedur and evidence were in need of reform.

Administrative Tribunal

14. The Law Minister recalled that the Resolution of CMs and CJs considered that the recommedations made therein should, *mutatis mutandis*, be enforced even in respect of administrative tribunals and that Gvornment should undertake an examination of problems connected with arrears of cases in those tribunals. In particular, they had drawn attention to the recommendation in the said Resolution with regard to, among other things, fixation of time-limits within which proposals for appointment of members of tribunal ought to be processed, periodic review of the optimum strength of members in each tribunal, granting of adjournments only in exceptional circumstances, time-limits for oral arguments, need for short judgements groping of cases, provision of modern equipments to tribunals, priority to old cases, and the need for reserved judgment to be given within a reasonable time.

15. The Law Ministers noted that the Working Group on administrative tribunals reviewed the working of administrative tribunals constituted by the Central Government. They took note of Doc. No. LMM (WG-III) 94/3 containing a working paper on "Review of the Working of Administrative Tribunals".

16. The Law Ministers agreed that the recommendations in the Resolution of the CMs and CJs in respect of administrative tribunals should be implemented as early as possible. They considered that vacancies in these tribunals should be filled up without delay so that the arrears did not mount.

17. The Law Ministers also considered that the tenure of appointment of members of the tribunals should be for fairly longer periods and that the provisions in various enactments in thisregard should be reviewed.

18. The Law Ministers also emphasised that care should be taken to ensure that only persons who have, among other things, requisite ability to handle cases, proper personal conduct and ethical behaviour, firmness and fearlessness were appointed as members of tribunals.

19. The Law Ministers were also of the opinion that disputes between Government and public sector undertakings and one public sector undertaking and another public sector undertaking ought not to go to courts or tribunals and that such disputes should be settled between the parties amicably.

20. The Law Ministers also considered that the selection committee constituted for making recommendations for appointment of members of tribunals should be headed by the Chief Justice of India or his nominee at the Central level, and by the Chief Justice of the concerned High Court or his nominee at the State level, and that such a selection committee should be a standing body.

21. The Law Ministers also considered that the administrative control over all tribunals at both central and state levels should be entrusted to a single Ministry/Department.

22. The Law Ministers were also of the opinion that orders passed by administrative bodies should invariably be speaking orders so that tribunals could appreciate what actually weighed with the authorities in taking their decisions.

23. The Law Ministers expressed their deep appreciation to the Government of West Bengal for inviting them to hold the present plenary meeting in Calcutta and making all efforts to make it successful.

Calcutta

17 November, 1994

Vacancies of Judges and pending cases in Gujarat and Maharashtra HCs

406. SHRIMATI CHANDRIKA ABHINANDAN JAIN: Will the PRIME MINISTER be pleased to state:

(a) how many vacancies of Judges are there in Gujarat and Maharashtra High Courts respectively, as on date;

(b) how many cases are lying pending in the above courts for judgement and hearing;

(c) what measures are being taken to appoint Judges to fill up the vacancies and whether any more Judges are required to deal with the pending cases; and

(d) the reasons for inordinate delay in appointing Judges and disposal of cases?

THE MINISTER OF STATE IN THE MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI H. R. BHARDWAJ): (a) As on 5.12.94 there were 5 vacancies of permanent Judges and 9 vacancies of Additional Judges against the sanctioned strengh of 42 permanent Judges and 12 Additional Judges of the Bombay High Court. Similarly, there were 4 vacancies of Additional Judges against the sanctioned strength of 23 permanent Judges and 7 Additional Judges of the Gujarat High Court, as on 5.12.94.

(b) As on 30.6.94, there were 1,96,790 and 99;501 cases pending in the Bombay and Gujarat High Court respectively

(c) and (d) The pendency of cases in High Courts is due to several complex factors. It has been decided to create six new posts of Additional Judges in the Bombay High Court and six new posts of permanent/Additional Judges in the Gujarat High Court over and above their